

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Re: Appeal to the Board of Patent Appeals and Interferences

Appellants:	Xuedong Song	)	Examiner:	Jacqueline A. DiRamio
)		
Serial No:	10/718,989	)	Group Art Unit:	1641
)		
Filed:	November 21, 2003	)	Deposit Account:	04-1403
)		
Confirmation No:	9109	)	Customer No:	22827
)		
Title: "Membrane-Based Lateral Flow		)	Attorney Docket:	KCX-741 (19044)
Assay Devices that Utilize)		
Phosphorescent Detection)		

1. ☒ **NOTICE OF APPEAL:** Pursuant to 37 CFR 41.31, Applicant hereby appeals to the Board of Appeals from the decision dated December 12, 2007 from the Examiner twice/finally rejecting claims 64-85 and 89-92.
2. ☐ **BRIEF** on appeal in this application pursuant to 37 CFR 41.37 is transmitted herewith (1 copy).
3. ☐ An **ORAL HEARING** is respectfully requested under 37 CFR 41.47 (due within two months after Examiner's Answer).
4. ☐ Reply Brief under 37 CFR 41.41(b) is transmitted herewith (1 copy).
5. ☐ "Small entity" verified statement filed: [] herewith [] previously.

6. **FEE CALCULATION:**

	Fees
If box 1 above is X'd enter \$ 510.00	\$ <u>510.00</u>
If box 2 above is X'd enter \$ 510.00	\$ <u>0.00</u>
If box 3 above is X'd enter \$1,030.00	\$ <u>0.00</u>
If box 4 above is X-d enter -0- (no fee)	\$ <u>0.00</u>

PETITION is hereby made to extend the original due date of March 12, 2008, hereby made for an extension to cover the date this response is filed for which the requisite fee is enclosed (1 month \$120; 2 months \$460; 3 months \$1,050; 4 months \$1,640, 5 months \$2,230

\$ 0.00

SUBTOTAL: \$ 510.00

Less any previous extension fee paid since above original due date. - \$ 0.00

SUBTOTAL: \$ 510.00

If "small entity" verified statement filed ☐ previously,

☐ herewith, enter one-half (1/2) of subtotal and subtract - \$ 0.00

TOTAL FEE ENCLOSED: \$ 510.00

- ☐ Fee enclosed.
- ☐ Charge fee to our Deposit Account/Order Nos. in the heading hereof (for which purpose one additional copy of this sheet is attached)
- ☒ Charge to credit card (attach Credit Card Payment Form – PTO 2038)
- ☐ Fee NOT required since paid in prior appeal in which the Board of Appeals did not render a decision on the merits.

The Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any fees in addition to the fee(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed hereafter, and which may be required under Rules 16-18 (deficiency only) now or hereafter relative to this application and the resulting official document under Rule 20, or credit any overpayment, to our Account No. shown in the heading hereof. This statement does not authorize charge of the issue fee in this case.

DORITY & MANNING ATTORNEYS AT LAW, P.A.

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By: Neil M. Batavia Reg. No: 54,599

Signature: 

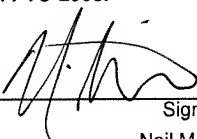
Date: March 12, 2008

I hereby certify that this correspondence and all attachments and any fee(s) are being electronically transmitted via the internet to the U.S. Patent and Trademark Office using the Electronic Patent Filing System on March 12, 2008.

Heidi M. Lewis

(Typed or printed name of person transmitting documents)


(Signature of person transmitting documents)

NOTICE OF APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES		Docket Number (Optional) KCX-741 (19044)							
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____ See attached Certificate of Electronic Submission		In re Application of <div style="text-align: center;">Xuedong Song</div> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">Application Number 10/718,989</td> <td style="padding: 2px;">Filed November 21, 2003</td> </tr> <tr> <td colspan="2" style="padding: 2px;">For Membrane-Based Lateral Flow Assay Devices that Utilize Phosphorescent Detection</td> </tr> <tr> <td style="padding: 2px;">Art Unit 1641</td> <td style="padding: 2px;">Examiner Jacqueline A. DiRamio</td> </tr> </table>		Application Number 10/718,989	Filed November 21, 2003	For Membrane-Based Lateral Flow Assay Devices that Utilize Phosphorescent Detection		Art Unit 1641	Examiner Jacqueline A. DiRamio
Application Number 10/718,989	Filed November 21, 2003								
For Membrane-Based Lateral Flow Assay Devices that Utilize Phosphorescent Detection									
Art Unit 1641	Examiner Jacqueline A. DiRamio								
Applicant hereby appeals to the Board of Patent Appeals and Interferences from the last decision of the examiner.									
The fee for this Notice of Appeal is (37 CFR 41.20(b)(1))		\$ 510.00							
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is:		\$ _____							
<input type="checkbox"/> A check in the amount of the fee is enclosed.									
<input checked="" type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.									
<input type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account. I have enclosed a duplicate copy of this sheet.									
<input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 04-1403. I have enclosed a duplicate copy of this sheet.									
<input type="checkbox"/> A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.									
WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.									
I am the									
<input type="checkbox"/> applicant/inventor.		Signature Neil M. Batavia							
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)		Typed or printed name							
<input type="checkbox"/> attorney or agent of record. Registration number _____		864-271-1592 Telephone number							
<input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. 54,599		March 12, 2008 Date							
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.									

☐ *Total of _____ forms are submitted.

This collection of information is required by 37 CFR 41.31. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.